

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent James Tong is the president and CEO of Respondent Charter Properties, a real estate development company in Pleasanton.

In 2002, during the first semi-annual campaign reporting period, Respondent James Tong and his company Respondent Charter Properties, made \$45,448 in political contributions, and thereby qualified as a “major donor committee” under the Political Reform Act (the “Act”).<sup>1</sup> As such, Respondents were required to comply with specified campaign reporting provisions of the Act.

Respondents were required by the Act to file paper versions of semi-annual campaign statements, commonly known as “major donor statements,” disclosing Respondents’ campaign activity during the six-month periods January 1, 2002 through June 30, 2002, and the six-month period July 1, 2002 through December 31, 2002. Additionally, because of the large amount of the contributions that they made in 2002, Respondents were required by the Act to file an electronic version of a “major donor statement,” disclosing Respondents’ campaign activity during the January 1, 2002 through December 31, 2002.

Additionally, in 2004, during the first semi-annual campaign reporting period, Respondent James Tong and his company Respondent Charter Properties, made \$114,200 in political contributions, and thereby qualified as a major donor committee under the Act. Respondents were required by the Act to file both electronic and paper versions of the major donor statements, disclosing Respondents’ campaign activity for the period January 1, 2004 through June 30, 2004, and for the period July 1, 2004 through December 31, 2004.

In 2005, during the second semi-annual campaign reporting period, Respondent James Tong and his company Respondent Charter Properties, made \$13,775 in political contributions, and thereby qualified as a major donor committee under the Act. Respondents were required by the Act to file a paper version semi-annual campaign statement disclosing Respondents’ campaign activity during the calendar year January 1, 2005 through December 31, 2005.

For the purposes of this Stipulation, Respondents’ violations are stated as follows:

**COUNT 1:** Respondents James Tong and Charter Properties failed to file a paper format semi-annual campaign statement, by the July 31, 2002 due date, for the reporting period January 1, 2002 through June 30, 2002, in violation of section 84200, subdivision (b) of the Government Code.

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

- COUNT 2: Respondents James Tong and Charter Properties failed to file a paper format semi-annual campaign statement, by the January 31, 2003 due date, for the reporting period July 1, 2002 through December 31, 2002, in violation of section 84200, subdivision (b) of the Government Code.
- COUNT 3: Respondents James Tong and Charter Properties failed to file an electronic format semi-annual campaign statement, by the January 31, 2003 due date, for the reporting period July 1, 2002 through December 31, 2002, in violation of section 84605, subdivision (a) of the Government Code.
- COUNT 4: Respondents James Tong and Charter Properties failed to file a paper format semi-annual campaign statement, by the July 31, 2004 due date, for the reporting period January 1, 2004 through June 30, 2004, in violation of section 84200, subdivision (b) of the Government Code.
- COUNT 5: Respondents James Tong and Charter Properties failed to file an electronic format semi-annual campaign statement, by the July 31, 2004 due date, for the reporting period January 1, 2004 through June 30, 2004, in violation of section 84605, subdivision (a) of the Government Code.
- COUNT 6: Respondents James Tong and Charter Properties failed to file a paper format semi-annual campaign statement, by the January 31, 2005 due date, for the reporting period July 1, 2004 through December 31, 2004, in violation of section 84200, subdivision (b) of the Government Code.
- COUNT 7: Respondents James Tong and Charter Properties failed to file an electronic format semi-annual campaign statement, by the January 31, 2005 due date, for the reporting period July 1, 2004 through December 31, 2004, in violation of section 84605, subdivision (a) of the Government Code.
- COUNT 8: Respondents James Tong and Charter Properties failed to file a paper format semi-annual campaign statement, by the January 31, 2006 due date, for the reporting period January 1, 2005 through December 31, 2005, in violation of section 84200, subdivision (b) of the Government Code.

### **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be

inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish this purpose of disclosure.

Section 82013, subdivision (c) includes within the definition of “committee” any person or combination of persons who directly or indirectly makes contributions, including loans, totaling ten thousand dollars (\$10,000) or more in a calendar year to, or at the behest of, candidates or committees. This type of committee is commonly referred to as a “major donor” committee.

### **Duty to File Semi-Annual Campaign Statements**

Section 84200, subdivision (b) requires a major donor committee to file a semi-annual campaign statement for any reporting period in which the committee made campaign contributions. The first semi-annual campaign statement covers the reporting period January 1 through June 30, and must be filed by July 31. The second semi-annual campaign statement covers the reporting period July 1 through December 31, and must be filed by January 31 of the following year.

Section 84215, subdivision (a) requires all major donor committees that make contributions supporting or opposing state candidates, measures, or committees to file their campaign statements with the offices of the Secretary of State, the Registrar-Recorder of Los Angeles County, and the Registrar of Voters of the City and County of San Francisco.

Section 82046, subdivision (b) specifies that the “period covered” by a campaign statement shall begin with the day after the closing date for the last statement filed. If a person has not previously filed a campaign statement, the period covered begins on January 1.

### **Duty to Identify Affiliated Persons and Entities as Comprising Part of the Major Donor Committee**

When a semi-annual campaign statement is filed by a major donor committee, the statement must include information sufficient to identify the nature and interests of the individuals and entities who, in combination, comprise the committee. (Section 84211, subd. (t).) Affiliated entities that do not receive contributions, such as major donor committees, must file one campaign statement reflecting their combined activities. (Regulation 18428, subd. (b).) The campaign statement must be filed in the name of the person who directs and controls the expenditures of the affiliate or affiliates, with an indication that the campaign statement includes the activity of these entities. The campaign statements must indicate which entity made each itemized payment. The filer must identify on its next campaign statement the addition or deletion of any entity, other than a committee pursuant to section 82013, subdivision (a), with which it becomes affiliated or with which it ceases to be affiliated.

### **Duty of File Campaign Statements Electronically**

In 1997, the Legislature amended the Act to require committees that are significantly active on the state level to file their campaign statements electronically as well as on paper. In doing so, the Legislature specifically declared, as set forth in Section 84601, subdivisions (b) and

(c), that “public access to campaign disclosure information is a vital and integral component of a fully informed electorate,” and that “[a]dvances in technology have made it viable for disclosure of statements to be filed online..., thereby maximizing availability to the public. Accordingly, section 84605, subdivision (a) requires all committees, defined in subdivision (c) of section 82013, to file online or electronically with the Office of the Secretary of State if they make contributions of fifty thousand dollars (\$50,000) or more in a calendar year.

### SUMMARY OF THE FACTS

During the semi-annual reporting period January 1, 2002 through June 30, 2002, Respondents James Tong and Charter Properties made contributions as follows:

<b>Date</b>	<b>To</b>	<b>Amount</b>
1/17/02	Anita Jimenez for Council	\$ 99.00
2/5/02	Roberta Cooper for Mayor	\$ 99.00
2/26/02	Gary Yee for School Board	\$ 500.00
3/1/02	Gary Yee for School Board	\$ 1,000.00
3/1/02	Ralph Appezzato for Supervisor	\$ 3,000.00
3/19/02	Committee for Urban Excellence	\$ 5,000.00
5/4/02	Wilma Chan for Senate	\$ 3,000.00
5/4/02	Friends of Keith Carson	\$ 1,000.00
5/4/02	Houston for Assembly	\$ 3,000.00
5/2/02	Davis for Governor	\$ 5,000.00
5/20/02	George Shen for Oakland School Board	\$ 500.00
6/5/02	Bill Lockyer for Attorney General	\$ 2,500.00
6/5/02	Perata for Senate	\$ 5,000.00
6/5/02	Davis for Governor	\$ 5,000.00
6/5/02	Alice Lai-Bitker for Supervisor	\$ 5,000.00
6/5/02	Committee to Re-Elect Wasserman	\$ 250.00
6/5/02	Committee to Elect Edwards	\$ 250.00
6/5/02	Committee to Elect Henry Yin	\$ 250.00
6/20/02	Alice Lai-Bitker for Supervisor	\$ 5,000.00
	<b>Total</b>	<b>\$45,448.00</b>

During the semi-annual reporting period July 1, 2002 through December 31, 2002, Respondents James Tong and Charter Properties made contributions as follows:

<b>Date</b>	<b>To</b>	<b>Amount</b>
9/20/02	Davis for Governor	\$ 5,000.00
9/10/02	Perata for Senate	\$ 5,000.00
10/18/02	Jerry Thorne for Council	\$ 500.00
11/1/02	Citizens for Cynthia Jones	\$ 99.00
11/1/02	Re-Elect Jeff Hansen	\$ 99.00
11/1/02	David Haubert for School Board	\$ 99.00
12/24/02	Torlakson for Senate	\$ 1,000.00
	<b>Total</b>	<b>\$11,797.00</b>

During the semi-annual reporting period January 1, 2004 through June 30, 2004, Respondents James Tong and Charter Properties made contributions as follows:

<b>Date</b>	<b>To</b>	<b>Amount</b>
2/14/04	Chan For Assembly	\$ 3,200
2/19/04	Californians United	\$ 10,000
4/15/04	Yes on 71	\$100,000
6/30/04	Westly 2006	\$ 1,000
	<b>Total</b>	<b>\$114,200</b>

During the semi-annual reporting period July 1, 2004 through December 31, 2004, Respondents James Tong and Charter Properties made contributions as follows:

<b>Date</b>	<b>To</b>	<b>Amount</b>
9/8/04	Figueroa for Lt. Gov	\$ 250
10/8/04	Chan for Assembly	\$3,200
11/13/04	Dutra for State Senate	\$ 500
	<b>Total</b>	<b>\$3,950</b>

During the reporting period January 1, 2005 through December 31, 2005, Respondents James Tong and Charter Properties made contributions as follows:

<b>Date</b>	<b>To</b>	<b>Amount</b>
5/16/05	Houston for Assembly	\$ 3,300.00
5/18/05	Dutra for State Senate	\$ 1,000.00
6/21/05	McCannon for Assembly	\$ 2,475.75
6/30/05	Westly for Governor	\$ 1,000.00
10/6/05	Chan for State Senate	\$ 3,000.00
11/7/05	Houston for Assembly	\$ 2,000.00
12/15/05	Taxpayers for Perata	\$ 1,000.00
	<b>Total</b>	<b>\$13,775.75</b>

By making campaign contributions of \$10,000 or more, Respondents qualified as a major donor committee under section 82013, subdivision (c) in calendar years 2002, 2004 and 2005.

The Enforcement Division staff discovered the violations in calendar year 2004 as part of the Enforcement Division's Streamlined Major Donor Program. Upon discovering the violation, Enforcement Division staff contacted Respondents on May 11, 2006. In response to that contact, Respondents filed their major donor statement on June 6, 2006, almost two years late. Respondents voluntarily notified staff of their failure to file major donor statements in the 2002 and 2005 calendar years. Respondents filed the 2002 major donor statements on February 10, 2006, four years late, and the 2005 major donor statement on August 3, 2006, eight months late.

#### COUNT 1

##### **Failure to File a Semi-Annual Campaign Statement**

As a major donor committee, Respondents James Tong and Charter Properties had a duty, under section 84200, subdivision (b), to file a paper format semi-annual campaign statement for the reporting period January 1, 2002 through June 30, 2002, disclosing campaign contributions made during that reporting period. Respondents were required to file the statement at all of the locations specified in section 84215, subdivision (a), including the Office of the Secretary of State, by July 31, 2002. Respondents failed to file a semi-annual campaign statement by the July 31, 2002 due date, in violation of section 84200, subdivision (b).

#### COUNT 2

##### **Failure to File a Semi-Annual Campaign Statement**

As a major donor committee, Respondents James Tong and Charter Properties had a duty, under section 84200, subdivision (b), to file a paper format semi-annual campaign statement for the reporting period July 1, 2002 through December 31, 2002, disclosing campaign contributions made during that reporting period. Respondents were required to file the statement at all of the locations specified in section 84215, subdivision (a), including the Office of the Secretary of State, by January 31, 2003. Respondents failed to file a semi-annual campaign statement by the January 31, 2003 due date, in violation of section 84200, subdivision (b).

#### COUNT 3

##### **Failure to File an Electronic Semi-Annual Campaign Statement**

As a major donor committee, Respondents James Tong and Charter Properties had a duty, under section 84605, subdivision (a), to file an electronic format semi-annual campaign statement for the reporting period July 1, 2002 through December 31, 2002, disclosing campaign contributions made during that reporting period. Respondents were required to file the electronic statement with the Office of the Secretary of State, by January 31, 2003. Respondents failed to file the electronic semi-annual campaign statement by the January 31, 2003 due date, in violation of section 84605, subdivision (a).

#### COUNT 4

##### **Failure to File a Semi-Annual Campaign Statement**

As a major donor committee, Respondents James Tong and Charter Properties had a duty, under section 84200, subdivision (b), to file a paper format semi-annual campaign statement for the reporting period January 1, 2004 through June 30, 2004, disclosing campaign contributions made during that reporting period. Respondents were required to file the statement at all of the locations specified in section 84215, subdivision (a), including the Office of the Secretary of State, by July 31, 2004. Respondents failed to file a semi-annual campaign statement by the July 31, 2004 due date, in violation of section 84200, subdivision (b).

COUNT 5

**Failure to File an Electronic Semi-Annual Campaign Statement**

As a major donor committee, Respondents James Tong and Charter Properties had a duty, under section 84605, subdivision (a), to file an electronic format semi-annual campaign statement for the reporting period January 1, 2004 through June 30, 2004, disclosing campaign contributions made during that reporting period. Respondents were required to file the electronic statement with the Office of the Secretary of State, by July 31, 2004. Respondents failed to file the electronic semi-annual campaign statement by the July 31, 2004 due date, in violation of section 84605, subdivision (a).

COUNT 6

**Failure to File a Semi-Annual Campaign Statement**

As a major donor committee, Respondents James Tong and Charter Properties had a duty, under section 84200, subdivision (b), to file a paper format semi-annual campaign statement for the reporting period July 1, 2004 through December 31, 2004, disclosing campaign contributions made during that reporting period. Respondents were required to file the statement at all of the locations specified in section 84215, subdivision (a), including the Office of the Secretary of State, by January 31, 2005. Respondents failed to file a semi-annual campaign statement by the January 31, 2005 due date, in violation of section 84200, subdivision (b).

COUNT 7

**Failure to File an Electronic Semi-Annual Campaign Statement**

As a major donor committee, Respondents James Tong and Charter Properties had a duty, under section 84605, subdivision (a), to file an electronic format semi-annual campaign statement for the reporting period July 1, 2004 through December 31, 2004, disclosing campaign contributions made during that reporting period. Respondents were required to file the electronic statement with the Office of the Secretary of State, by January 31, 2005. Respondents failed to file the electronic semi-annual campaign statement by the January 31, 2005 due date, in violation of section 84605, subdivision (a).

COUNT 8

**Failure to File a Semi-Annual Campaign Statement**

As a major donor committee, Respondents James Tong and Charter Properties had a duty, under section 84200, subdivision (b), to file a paper format semi-annual campaign statement for the reporting period January 1, 2005 through December 31, 2005, disclosing campaign contributions made during that reporting period. Respondents were required to file the statement at all of the locations specified in section 84215, subdivision (a), including the Office of the Secretary of State, by January 31, 2006. Respondents failed to file a semi-annual campaign statement by the January 31, 2006 due date, in violation of section 84200, subdivision (b).

## **CONCLUSION**

This matter consists of eight counts, which carry a maximum possible administrative penalty of Forty Thousand Dollars (\$40,000).

This matter was excluded from the Enforcement Division's Streamlined Major Donor Enforcement Program due to the size of the unreported contributions.

The administrative penalty imposed for major donor filing violations resolved outside of the Streamlined Major Donor Enforcement Program has historically been determined on a case-by-case basis, and has varied depending on the mix of aggravating and mitigating circumstances. In this case, Respondents' violations are aggravated by the large amount of the unreported contributions and because of Respondent James Tong's prior violation of section 84301 of the Government Code. Additionally, Respondents qualified as a major donor in 1994 and were familiar with the Act's major donor reporting requirements. An additional aggravating factor as to all of the violations is that there was a continuing pattern of violations over several years. With regard to Count 1, because of the number of contributions made and the amount not reported, a penalty in the high range of \$4,000 is warranted. As to Counts 2 and 3, because of the lesser amount unreported, a penalty of \$3,000 for each count is warranted. As to Counts 4 through 7, because of the large amount unreported over the whole year, a penalty of \$4,000 for each count is warranted. For count 8, as another violation in a continuing pattern, a penalty of \$4,000 is warranted.

The facts of this case justifies imposition of the agreed upon penalty of Twenty-Six Thousand Dollars (\$26,000).